

REMARKS

Status of the Claims

Claims 14-25 and 28-35 are now present in this application. Claims 14-16, 18, 24, 25, 34, and 35 are independent.

Claims 1-13, 26, and 27 have been canceled without prejudice or disclaimer. Claims 15, 18, 19, 24, 25, 28, and 31-33 having been improperly withdrawn from consideration and claims 34 and 35 have been amended as suggested in the outstanding Action. Reconsideration of this application, as amended, is respectfully requested.

Withdrawal of Improper Action Finality

The outstanding Action adds the below noted improper rejections of previously presented claims 34 and 35 that were not necessitated by any amendment made to these previously presented claims. Accordingly, it is believed to be clear error and a violation of MPEP § 706.07(a) to make this outstanding Action final as noted in the Petition to the Director filed herewith.

This petition further notes the continued error of presenting a restriction requirement for lack of unity of invention for the first time in a final rejection and assuming what claims might be elected. The continued errors of rejecting canceled claims, treating pending claims as cancelled and the failure to adequately explain the lack of unity of invention requirement and other errors pointing to the need for reassignment of this application and strict oversight to insure SPE compliance with MPEP § 707.02 relative to finally concluding prosecution of this application already subject to numerous improper restriction requirements and three previous erroneous Final Rejections that have all been withdrawn for cause.

The above noted "other errors" include an erroneous withdrawal statement in paragraph 16 on page 9 thereof that appears to have been improperly copied from the page 4 (paragraph 8) comments of the Action dated March 4, 2010. This erroneous statement is incorrect because it only notes the withdrawal of "the 2 previous final rejections dated 8/6/2009 and 2/2/2010." The statement in paragraph 9 on page 6 of the present outstanding Action that affirms that "the prior final office actions have been withdrawn" includes the withdrawal of the previous Final Office Action of March 4, 2010, as well as the "two previous final rejections," is believed to control as the Interview Summary dated September 13, 2010, and the Decision on Petition dated September

9, 2010, indicate that the previous Final Office Action of March 4, 2010, has also been withdrawn.

In addition to being confusing as to the particular previous improper Final Actions that have been withdrawn, the outstanding Action once again errs by failing to acknowledge that copies of the priority documents have been received from the International Bureau.

The outstanding Action further erroneously indicates that only claims 14, 16, 17, 20-23, and 29-35 are pending on the PTOL-326 (Office Action Summary) and then offers the conflicting statements that claims 14-25 and 28-35 are pending (see paragraph 1 on page 2) and that “[c]laims 15, 18, 19, 24, 25, 28, and 31-33 have been canceled” (see paragraph 2 on page 2).

Restriction Requirement

Pages 6-8 of the outstanding Action present a “Restriction” requirement substantially copied the above-noted improper Final Action of March 4, 2010.

With regard to this copied requirement, the response filed June 3, 2010, noted many errors in the Requirement as follows:

The outstanding Restriction requirement is further noted to be clearly improper and traversed in that it lists canceled claims 26 and 27 as being in “Group I” while failing to list already acted upon claims 34 and 35 in this group or any other one of the listed Groups II-V.

The outstanding Restriction requirement is also traversed because it alleges that Groups I-V “do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features.” This statement is followed by the allegation that Groups I-V “lack unity of invention” because the “technical feature of the license server” is asserted to not be a “special technical feature” because it is alleged to make no contribution over the prior art based on Ishiguro (U.S. Patent No. 7,216,368) teaching of “applying license to devices that provide content therefore the shared technical feature lacks novelty and an inventive step in view of Ishiguro.”

However, independent claims 14 and 16 of Group I include far more in common with independent claim 15 of Group II and independent claim 18 of Group III than just “applying license to devices that provide content.” For example, each of independent claims 14-16 and 18 requires an “accounting server” to receive at least “content ID” and “accounting ID” to perform an accounting and to return an indication of a successful accounting after subtracting an appropriate amount from stored money information.

...

Furthermore, this is the first restriction requirement that has based restriction on an allegation of lack of "unity of invention." This is, therefore, the first opportunity that has been presented to make an election based upon allegations of a lack of "unity of invention." Thus, the outstanding "final" Action clearly violates 37 C.F.R. §1.143 in that there has been no opportunity provided to Applicants to traverse this requirement before it was made "final." This last point is important as it impacts on the right of the applicant to file a petition for review of the Requirement under 37 C.F.R. §1.144.

Rather than address these points, paragraph 3 on pages 2-3 of the outstanding Action simply alleges that the only relevant "technical feature as between claims 14, 15, and 18 is a "license server." This argument ignores the above noted quote from the response of June 3, 2010 that pointed out:

However, independent claims 14 and 16 of Group I include far more in common with independent claim 15 of Group II and independent claim 18 of Group III than just "applying license to devices that provide content." For example, each of independent claims 14-16 and 18 requires an "accounting server" to receive at least "content ID" and "accounting ID" to perform an accounting and to return an indication of a successful accounting after subtracting an appropriate amount from stored money information.

In addition, it is clear that claims 14 and 15 further require a content reproduction device that is structurally arranged to read out an accounting ID identifying money information from a prepaid card while claims 16 and 18 further require a license vending machine that must read a license card.

Furthermore, even if claims 24 and 25 do not recite a license server, they share a different technical feature with respective claims 14 and 16 of group I as to the shared recital of a unit that performs decoding and reproduction in a specified manner (claims 14 and 24) and the license vending machine that reads the above-noted license card (claims 16 and 25).

The Examiner's arguments evidence a lack of understanding that the PTO must show that each and every claim in each of the groups lacks unity of invention as to each and every claim in every other group. Also, the listing of "Groups" assigns a different function as serving as the reason for insisting on the restriction between these "Groups." It is not seen how the functions that the Examiner insists can be given no patentable weight can be the basis for any type of restriction requirement or unity of invention requirement as between claims 14 and 15, for

example, which each recite the same elements (license server, accounting server, content reproductive device, communication network and a prepaid card).

In any event, in order to comply with the improper requirement as best as possible, Applicants again elect, with the above-noted traverse, Group I, claims 14, 16, 17, 20-23, 29, and 30 along with ungrouped claims 34 and 35.

Rejection under 35 U.S.C. § 112, 2nd Paragraph

The outstanding Action once again erroneously copies the rejection of claims 14, 16, 20, 22, 23, and canceled claim 26 along with the improper implied rejection of canceled claim 27 under the second paragraph of 35 U.S.C. §112 from the Office Action dated December 24, 2008.

A review of the Application reveals that the rejection of long ago canceled claim 26 and the implied rejection of canceled claim 27 are clear errors that were pointed out to the Examiner in the response filed on June 3, 2010. Thus, Applicants have again not received a fair examination of the Application as they have been unfairly burdened with responding to the meaningless rejection of canceled claim 26 and the meaningless implied rejection of canceled claim 27 that is also copied here as paragraph 27 on page 11 of the outstanding Action. In any event, these improper rejections of cancelled claims 26 and 27 are again noted to be moot.

Secondly, it is noted that the identical rejection and accompanying rationales of the outstanding Action were traversed in the Response filed June 3, 2010, and these rebuttal arguments have been ignored in violation of MPEP § 707.07(f). This rejection of pending claims 14, 16, 20, 22, and 23 is again traversed for all the reasons set forth in the Response filed June 3, 2010, that still erroneously remain unanswered.

In addition to the previous rationales for rejecting claim 14 under the second paragraph of 35 U.S.C. §112, the outstanding Action adds a new rationale as paragraph 6 that bridges pages 4 and 5 thereof. This new rationale relies on *IPXL Holdings, L.L.C. v. Amazon.Com, Inc.*, 430 F.3d 1377, 1384 (Fed. Cir. 2005) in addition to the *Ex Parte Lyell* decision that was fully treated in the response filed June 3, 2010, as follows:

Turning to item 7 on page 3 of the outstanding Action, it is noted that this rationale offered as to the rejection of claim 14 under the second paragraph of 35 U.S.C. §112 is based on the decision of *Ex parte Lyell*, 17 USPQ2d 1548 (B.P.A.I. 1990). This rationale has misinterpreted the clearly permissible

functional language (see *In re Swinehart*, 439 F.2d 210, 160 USPQ 226 (CCPA 1971) cited in the above noted quotation from MPEP §2173.01) of this claim as somehow constituting process language like the specifically claimed process steps in exemplary claim 2 in *Lyell* that is repeated as follows:

2. An automatic transmission tool in the form of a workstand **and method for using same** comprising:
 - a support means,
 - and [sic] internally splined sleeve affixed upright to said support means,
 - a threaded adjustment bolt threadably engaged through a hole in the bottom of said support means and projecting upward through said support frame into said sleeve,
 - and **further comprising the steps of**
 - 1. positioning the output end of an automatic transmission onto said upright sleeve,**
 - 2. removing the internal components of said automatic transmission from the casing of said transmission,**
 - 3. repairing and replacing said internal components back into said casing, and**
 - 4. adjusting said internal components for fit and interference by means of adjusting said upwardly projecting adjustment bolt.** (Emphasis added.)

The language noted in the outstanding Action is not this expressly stated “method” and “step” language in *Lyell*, instead it relates to recitations of functions. With further regard to such **functional language**, this type of claim language is noted to be proper for use in an apparatus claim in terms of being noted to comply with the second paragraph of 35 U.S.C. §112 by *In re Swinehart, supra*. In addition, MPEP §2173.05(g) notes that:

A functional limitation must be evaluated and considered, just like any other limitation of the claim, for what it fairly conveys to a person of ordinary skill in the pertinent art in the context in which it is used. A functional limitation is often used in association with an element, ingredient, or step of a process to define a particular capability or purpose that is served by the recited element, ingredient or step.

Turning to the above-noted newly cited *IPXL Holdings* decision, this decision involved a claim that recited that “*the user uses the input means*” to either change the predicted transaction information or accept the displayed transaction type and transaction parameters. It is clear that the “user” is a person, not a machine or device, and that the recitation “*the user uses the input*

means” requires that someone is using the input means. There is no recitation of a “user” who “uses” anything in any of pending rejected claims 14, 16, 20, 22, and 23. In addition, the decision in *IPXL Holdings* was noted to be based on the lack of clarity there as to when the claim would be infringed. (“[I]t is unclear whether infringement of claim 25 occurs when one creates a system that allows the user to [practice the claimed method step], or whether infringement occurs when the user actually [practices the method step].”). There is no similar ambiguity in pending claims 14, 16, 20, 22, and 23.

Accordingly, reconsideration and the withdrawal of the clearly improper rejection of claims 14, 16, 20, 22, 23, and canceled claim 26 under the second paragraph of 35 U.S.C. §112 and the improper implied rejection of canceled claim 27 is once again respectfully requested.

35 U.S.C. §102 REJECTION

Item 29 on page 12 of the outstanding Action sets forth a rejection of claims 34 and 35 under 35 U.S.C. §102(b) as being anticipated by Ishiguro (U.S. Patent No. 7,216,368). The rejection is traversed.

As noted above, claims 34 and 35 have been amended as suggested in the outstanding Action to overcome this rejection. This has been done to advance prosecution and because the suggested changes do not narrow the scope of these claims.

Furthermore, a review of previously presented claims 34 and 35 reveals that these claims did recite “functional descriptive material” as specified in MPEP § 2106.01 in terms of a recital of a recording medium with a “computer program” that will “impart functionality when employed as a computer component.” Clearly, the Examiner’s interpretation that this recital of a computer medium that stores a computer program is not “functional descriptive material” is without merit. Note MPEP § 2106.01 that establishes that “[w]hen functional descriptive material is recorded on some computer-readable medium, it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized.” Thus, the Examiner’s interpretation of the recited “computer-readable recording medium physically recording thereon a computer program for controlling ...” as merely reciting “stored data” is clearly without merit as conflicting with the guidance in MPEP § 2106.01 and the cited *Lowry* decision. In this last respect, *Lowry* (at 32 USPQ2d 1034) specifically notes that “[t]he printed matter cases [like the

Gulack and *Ngai* decisions] have no factual relevance where ‘the invention as defined by the claims *requires* that the information be processed not by the mind but by a machine ...’ (emphasis in original).

Accordingly, the withdrawal of the rejection of amended claims 34 and 35 as being anticipated by Ishiguro is respectfully requested.

35 U.S.C. §103 REJECTION

Item 33 on page 13 of the outstanding Action sets forth a rejection of claims 14, 16, 17, 20-23, canceled claim 26, canceled claim 27, 29, 30, 34, and 35 under 35 U.S.C. §103(a) as being unpatentable over Ishiguro. This rejection is clearly moot as to previously canceled claims 26 and 27 as was already pointed out in the response filed June 3, 2010. The rejection is traversed as to pending claims 14, 16, 17, 20-23, 29, 30, 34, and 35.

The paragraph bridging pages 13 and 14 of the outstanding Action alleges that “Fig. 1; col. 6, lines 50-65; col. 7, lines 1-3” of “Ishiguro discloses an accounting system comprising: a license server connected with an accounting server and a content reproduction device that is structurally arranged to read out an accounting ID identifying money information from a prepaid card, to transmit a content ID identifying a desired encrypted content and the accounting ID to the license server through a communication network, and to receive and store decoding information needed to decode the desired encrypted content from the license server when the license server determines that decoding information can be provided to the content reproduction device.”

This is a clearly erroneous finding as col. 3, lines 1-3 of Ishiguro only disclose that “[a]ny number of content servers 3, license servers 4, and accounting servers 5 may be configured and connected to the Internet 2 in practice.” Furthermore, Fig. 1 is a block diagram that does no more than show content server 3, license server 4, accounting server 5, and clients (1-1 and 1-2) connected to the Internet 2. Similarly, col. 6, lines 50-65 describe this Fig. 1 block diagram in very general terms as follows:

DETAILED DESCRIPTION

Best Mode for Carrying Out the Invention

FIG. 1 outlines a typical configuration of a content providing system according to the invention. Clients 1-1 and 1-2 (simply called the client 1 hereunder if there is no need for distinction therebetween) are connected to the Internet 2. Although only two clients are shown configured in the example of FIG. 1, any number of clients may be connected to the Internet 2 in practice.

The Internet 2 is also connected with a content server 3, a license server 4, and an accounting server 5. The content server 3 provides contents to the client 1. The license server 4 offers the client 1 licenses for using the contents provided by the content server 3. The accounting server 5 performs an accounting process regarding the client 1 having acquired a license.

To whatever extent that it is noted that “[t]he content server 3 provides contents to the client 1” and that “[t]he license server 4 offers the client 1 licenses for using the contents provided by the content server 3” while “[t]he accounting server 5 performs an accounting process regarding the client 1 having acquired a license,” there is no teaching or suggestion of the claim 14 language requiring “a content reproduction device that is structurally arranged to read out an accounting ID identifying money information from a prepaid card, to transmit a content ID identifying a desired encrypted content and the accounting ID to the license server through a communication network, and to receive and store decoding information needed to decode the desired encrypted content from the license server when the license server determines that decoding information can be provided to the content reproduction device.” Instead of the claimed interaction which requires readout of “a prepaid card,” Ishiguro teaches the following at col. 7, lines 50-64:

The user orders access to the content server 3 by operating the input unit 26. In response, the CPU 21 reaches step S1 and causes the communication unit 29 to access the content server 3 via the Internet 2. In step S2, the user inputs information for designating the content to be provided by operating the input unit 26. Given the content-designating information, the CPU 21 reports the information to the content server 3 through the communication unit 29 and via the Internet 2. Upon receipt of the report, the content server 3 returns encrypted content data, as will be described later with reference to the flowchart of FIG. 4. In step S3, the CPU 21 receives the transmitted content data through the

communication unit 29. In step S4, the CPU 21 records the encrypted content data to the hard disc constituting the storage unit 28.

If there is some other disclosure in Ishiguro of the access to content server 3 and resulting operations performed by the content server 3 that is being relied upon, the mandates of 37 CFR § 1.104(c)(2) have been violated because this section requires that the “pertinence of each reference, if not apparent, must be clearly explained” (emphasis added).

Apparently aware that the meager and inappropriate above-noted references to “Fig. 1; col. 6, lines 50-65; col. 7, lines 1-3” of Ishiguro are completely inadequate to satisfy 37 CFR § 1.104(c)(2), page 3 of the outstanding Action presents stray remarks in item 4 on page 3 as to just claim 14 under the page 2 general heading “Response to Arguments.” Here, the more specific operations of the license server 4 are noted relative to Fig. 9 that is discussed below as to being improperly relied upon as to the claim 16 “vending machine.” The license renewing process of Fig. 11 is further erroneously noted here to somehow be a disclosure of a license server as is the license purchasing process flow chart of Fig. 33.

In addition to the cryptic and erroneous allegations as to Figs 11 and 33, item 4 on page 3 again admits that the claimed limitations as to the performance of the license server required by claim 14 are again being ignored based upon an erroneous analysis of the below-noted *Schreiber* and *Swineheart* decisions.

Paragraph 5 that bridges pages 3 and 4 of the outstanding Action further notes some examples of claim 14 limitations with some associated functions and then erroneously alleges that “Ishiguro discloses all of the structural elements in the claim.” Missing from the abbreviated listing of “license server,” “content reproduction device” and “license vending machine” are the claim 14 recited “prepaid card,” the claim 14 recited “communication network,” as well as the claim 14 recited “accounting server.” Furthermore, the outstanding Action adds to the list of clear errors committed by suggesting that claim 14 recites a “license vending machine” as well as once again improperly ignoring positively recited claim limitations based upon a clearly erroneous interpretation of the below-noted *Schreiber* and *Swineheart* decisions.

Furthermore, the above-noted clearly erroneous finding that “Ishiguro discloses an accounting system comprising: a license server connected with an accounting server and a content reproduction device that is structurally arranged to read out an accounting ID identifying

money information from a prepaid card” is admitted in the first full paragraph on page 14 of the outstanding Action that expressly states that at least the requirement of claim 14 that the content reproduction device must “read out an accounting ID identifying money information from a prepaid card” is not disclosed by Ishiguro. Rather than explain why the claimed requirement for a “prepaid card” is not a structural limitation not taught by Ishiguro, the outstanding Action chooses instead to clearly misinterpret the decisions of *In re Swineheart* and *In re Schreiber* (that are cited on pages 14, 15, and 18 of the outstanding Action as well as on the above-noted page 3) as holding that “while features of an apparatus may be recited either structurally or functionally, claims to an apparatus must be distinguished from the prior art in terms of structure rather than function alone.”

In this last regard, it is noted that the rejections under review in both *Schreiber* and *Swineheart* were made under 35 U.S.C. § 102 based on anticipation and in each case the prior art reference relied upon to make the rejection was found by the court to include a claimed function under the principle of inherency. It was in this inherency context that the court in *Schreiber* noted that “[t]he examiner and the Board both addressed the question whether the functional limitations of Schreiber's claim gave it patentable weight and concluded that they did not, because those limitations were found to be inherent in the Harz prior art reference (emphasis added). Here, the rejection is under 35 U.S.C. § 103, not under 35 U.S.C. § 102, and the Examiner has not demonstrated any evidence or produced any sound scientific reasoning to even remotely hint that that the content server 3 of Ishiguro will inherently “read out an accounting ID identifying money information from a prepaid card, to transmit a content ID identifying a desired encrypted content and the accounting ID to the license server through a communication network.” MPEP § 2112 (IV) establishes that the Examiner must provide a rationale or evidence tending to show inherency. Inherency may not be established by mere probabilities or possibilities as it must be necessarily present. *See In re Oelrich*, 666 F.2d 578, 581, 212 USPQ 323, 326 (CCPA 1981) and *In re Rijckaert*, 9 F.3d 1531, 1534, 28 USPQ2d 1955, 1957 (Fed. Cir. 1993).

Accordingly, a functional limitation cannot be erroneously ignored simply because it is not a recitation of the structural element as has been erroneously stated in the outstanding Action.

In this last regard, and as noted in the response filed June 3, 2010, that still has not been answered, it is well established that all claim limitations, including functional claim limitations, must be given patentable weight as clearly explained by the court in the previously noted *In re Angstadt*, 190 USPQ 214, 217 (CCPA 1976) decision that noted that the functional claim “limitation ‘to form * * * hydroperoxides’ must be given effect since we *must* give effect to *all* claim limitations” (emphasis in original).

With further regard to the clear misinterpretation of the *Schreiber* decision and the well established requirement that weight must be given to functional claim language that is not inherently performed by the reference, see *K-2 Corp. v. Salomon S.A.*, 52 USPQ2d 1001, 1004-05 (Fed. Cir. 1999) as follows:

The functional language [“*for substantially preventing movement therebetween at least in a horizontal plane*”] is, of course, **an additional limitation in the claim** [emphasis added]. See, e.g., *Wright Med. Tech., Inc. v. Osteonics Corp.*, 122 F.3d 1440, 1443-44, 43 USPQ2d 1837, 1840 (Fed.Cir. 1997) (functional language analyzed as a claim limitation). This limitation requires that the attachment between the bootie and the base “substantially prevent []” movement of the bootie (and presumably, the user’s foot when inserted in the bootie) in a horizontal plane. In other words, the functional language requires that the attachment prevent the bootie from sliding around on top of the base; it demands a structural rigidity in the horizontal dimension to the connection between the bootie and the base.

Besides improperly trying to ignore the above-noted claim 14 functional limitations, the paragraph bridging pages 14 and 15 of the outstanding Action then suggests that the relied upon misinterpretation of the *Schreiber* decision permits the Examiner to ignore the remainder of the claim limitations that are also clearly not taught by Ishiguro because functions are again recited.

Turning to claim 16, the outstanding Action first erroneously alleges (in the last full paragraph at the bottom of page 16 of the outstanding Action) that Fig. 1 and col. 7, lines 1-3, of Ishiguro somehow teach “a license vending machine connected to the license server through a communication network, the license vending machine being structurally arranged to read decoding information from a license card needed to provide desired encrypted content from the content reproduction device.” The clearly erroneous nature of this allegation is then admitted at page 16 in terms of changing reliance to Fig. 9, col. 6, lines 60-65, and col. 12, lines 1-25 for

teaching a vending machine that is admitted to not be disclosed to be “structurally arranged to receive and read a license card.”

Furthermore, relied upon Fig. 9 is a flowchart for a license providing process performed by a license server, not by a “vending machine.” Col. 6, lines 60-65 discuss license server operation and how content server 3 provides contents to the client 1 while license server 4 offers the client 1 licenses for using the contents provided by the content server 3. The accounting server 5 is also mentioned but there is no hint here of any “vending machine.” Similarly, col. 12, lines 1-25 describe some of the steps shown by Fig. 9 as to license processing and accounting processing but there is again no discussion of any “vending machine,” much less one operating to receive and read a license card.” It is impossible to determine how the outstanding Action turns these meager disclosures into the limitations of claim 16 based on no more than observing that Ishiguro discloses inputting information by keyboard coupled with the allegation that “it would have been a predictable result of the invention to store or backup the needed information in the input device or storage medium in case it is not available on the machine” as noted at the bottom of page 17 of the outstanding Action.

Furthermore, nothing in the relied upon *Smith* decision suggests that the PTO can ignore claim limitations or the requirements of the Administrative Procedure Act that requires the PTO to provide substantial evidence to support any conclusions. See *In re Lee*, 217 F.3d 1365, 61 USPQ2d 1430, 1433-34 (Fed. Cir. 2002). In the *Smith* case there was evidence made of record to support the proposed change and no such evidence has been made of record here.

The improper reliance on the misinterpreted *Schreiber* decision as somehow authorizing the Examiner to ignore express claim limitations at page 18 of the outstanding Action has been shown above to be clear error.

Compounding this clear error is the further clearly erroneous reliance on the *Collier* decision at the bottom of page 18 of the outstanding Action (as to limitations characterized as “actions that may or may not be done” being indefinite). Even if such “indefinite” actions were claimed, which is not the case, this does not mean that they can be ignored in a prior art rejection. See MPEP §2143.03 that directs examiners to consider all claim limitations in an obviousness analysis, even those asserted to be indefinite. Further note *In re Wilson*, 424 F.2d 1382, 165 USPQ 494 (CCPA 1970) cited here.

Conclusion

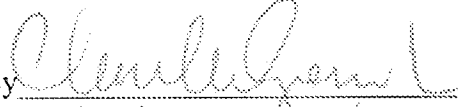
As all of the stated grounds of rejection have been properly traversed or demonstrated to be moot, reconsideration and withdrawal of all presently outstanding rejections is respectfully requested along with the allowance of this pending application.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Raymond F. Cardillo, Jr., Registration No. 40,440 at the telephone number of the undersigned below to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Director is hereby authorized in this, concurrent, and future replies to charge any fees required during the pendency of the above-identified application or credit any overpayment to Deposit Account No. 02-2448.

Dated: January 28, 2011

Respectfully submitted,

By 
Michael R. Cammarata
Registration No.: 39491
BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 Gatehouse Road, Suite 100 East
P.O. Box 747
Falls Church, VA 22040-0747
703-205-8000